

REMARKS

The Office Action, mailed July 7, 2007 (hereinafter, "Office Action"), has been reviewed and the Examiner's comments considered. Applicant notes with appreciation the time set aside by the Examiner to discuss the outstanding rejection of the claims in an interview on October 10, 2007, the details of which are below. Claims 42, 46, and 50-51 are pending in this application. No amendments are made herein.

Statement on Substance of Interview

The interview was conducted via telephone on October 10, 2007, between the undersigned and Examiner Walter Aughenbaugh. Independent claims 42 and 50 were discussed in view of the claim rejections under 35 U.S.C. § 102 as anticipated by USPN 5,321,109 to Bosse et al. and USPN 5,468,138 to Bosse et al., a divisional of the '109 Bosse et al. (hereinafter collectively, "Bosse"). The Examiner acknowledged awareness of the identical rejection being made in the parent of the present application and Applicant noted that the rejection appeared to be overcome prior to abandonment. Substantively, Applicant provided arguments to overcome the rejection and the Examiner indicated that the arguments would be taken under advisement in view of the written response. The arguments discussed in the interview are included in the formal response below.

Claim Rejections - 35 U.S.C. § 102

Claims 42 and 50 stand rejected under 35 USC § 102(e) as being anticipated by Bosse. Applicant respectfully traverses this rejection.

The Office Action alleges that Bosse teaches a pre-dilated tube that is sintered after pre-dilation to contract to its pre-expanded shape if not held to its expanded dimensions and that, therefore, the claimed radial expansion ratio is disclosed. Support for these allegations in the Office Action are purportedly found in the following passages of Bosse (underlining added for emphasis):

Polytetrafluoroethylene (PTFE) is an expandable polymer which finds many uses in medicine and industry. As PTFE is stretched during expansion, it forms a porous microstructure of nodes and fibrils. The direction in which the

PTFE is stretched may affect the tensile strength of the resulting tube or film as measured in different directions relative to the direction in which the material was expanded. (col. 1:13-20).

PTFE can be stretched to many times its original dimensions. Prior to expansion, the extruded PTFE film is typically heated to approximately within the range of 225-300 degrees Centigrade. Upon reaching such temperature, the film is expanded by stretching to a desired dimension. Following expansion, the PTFE film is heated to a higher sintering temperature of approximately 375 degrees Centigrade or higher to lock the crystalline structure to its expanded dimensions. During this sintering step, the expanded film must be held to its expanded dimensions, or the film will contract partially back toward its pre-expanded shape. (col. 1:39-50).

According to MPEP, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference (citation omitted)” (MPEP § 2131, p. 2100-67, Rev. 5, Aug. 2006).

Independent claims 42 recites, *inter alia*, “wherein said tube is pre-dilated and is then sintered to contract said tube to the original inner diameter, said tube exhibiting a radial expansion ratio of 1.0.” Independent claim 50 recites, *inter alia*, “a pre-dilated tube that is sintered to form a contracted tube with a radial expansion ratio of about 1.0.”

From the above-reproduced passages, the Office Action purports to find both a pre-dilated tube that is sintered to form a contracted tube and a tube with a radial expansion ratio of 1.0. Applicant respectfully submits that neither is shown or described by Bosse. In particular, the passage in the background section of Bosse describes prior art uses for films as opposed to tubes, which would be expected for patents entitled “Uniformly Expanded PTFE Film” and “Apparatus for Stretching Polymer Films.” The fact that the opening paragraph of the background sets up the discussion of PTFE film by stating that stretching of PTFE tubes is known is inapposite to an *anticipation* rejection in which each and every element of the claim is expressly or inherently

described. In other words, there must be more than the mere mention of a tube to *expressly or inherently* describe the claimed features in independent claims 42 and 50.

The possibility was raised in the interview that the description in Bosse of a “resulting tube” is possibly sufficient for an inherency showing. However, the sentence underlined in the reproduced passage of Bosse above states that the direction of stretching may affect the tensile strength of the resulting tube, implying not that the tube is made from a stretched film, but that the tube after being stretched has a different tensile strength than before being stretched. In fact, the word “tube” appears only two additional times in Bosse, both in the background section describing patents that disclose “the formation of expanded tubes and films made of PTFE” (col. 1:27-28) and “biaxial stretching of the PTFE tube” (col. 1:38-39). Thus, in no instance does Bosse show or describe each and every feature of the pending claims, either expressly or inherently. Specifically, Bosse does not show or describe at least a pre-dilated tube that is sintered to form a contracted tube or a tube with a radial expansion ratio of 1.0.

Accordingly, Applicant respectfully submits that Bosse does not anticipate independent claims 42 and 50, and therefore request withdrawal of the rejection under 35 U.S.C. § 102.

Claim Rejections - 35 U.S.C. § 103

Claims 46 and 51 stand rejected under 35 USC § 103(a) as being unpatentable over Bosse in view of USPN 5,618,300 to Marin et al. Applicant respectfully traverses this rejection.

Claims 46 and 51 are believed to be patentable in view of the cited combination of references at least because each is dependent on a patentable independent claim, as discussed above. Therefore, Applicant respectfully requests withdrawal of this rejection.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is

determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 297912002103. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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